

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2515 of 2015

This the 05th day of October, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Smt. Kasturi (Aged about 28 years)
W/o late Sh. Sugar Singh,
R/o H.No.906, Jawahar Colony,
Khand B, NIT Faridabad.
2. Sh. Bhog Chand (Aged about 36 Years)
S/o late Sh. Sugar Singh
R/o H.No.906, Jawahar Colony,
Khand B, NIT Faridabad.
3. Sh. Lakhan Lal (Aged about 60 years)
S/o late Sh. Sugar Singh
R/o H.No.906, Jawahar Colony,
Khand B, NIT Faridabad.
4. Sh. Sher Singh (Aged about 52 years)
S/o late Sh. Sugar Singh
R/o H.No.906, Jawahar Colony,
Khand B, NIT Faridabad.
5. Smt. Indra (Aged about 38 years)
D/o late Shri Sugar Singh
W/o Sh. Shri Chand
R/o Village Allika, Tehsil & Distt. Palwal
6. Smt. Lachchhi (Aged about 36 years)
D/o Late Sh. Sugar Singh, W/o Sh. Vinod
R/o Villae Dudhanla, Post, Badhola,
Tehsil & Distt. Palwal.
7. Smt. Radha (Aged about 56 years)
D/o late Sh. Sugar Singh,
W/o Sh. Parashu Ram,
R/o Hodal, The. Hodal, Distt. Palwal
8. Smt. Batana (Aged about 54 years)
D/o late Sh. Sugar Singh, W/o Sh. Jeet Ram
R/o Hodal, The. Hodal, Distt. Palwal

....Applicants

(None present)

VERSUS

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway, Estate Entry Road,
Baroda House, New Delhi.
3. The Divisional Personnel Officer,
Northern Railway, Estate Entry Road,
Baroda House, New Delhi.

.....Respondents

(By Advocate : Shri Amit Kumar)

ORDER (Oral)

When this matter is taken up for hearing today, there is no appearance on behalf of applicants. On previous date also there was no appearance on behalf of the applicants and it was made clear that no further opportunity shall be given to either side. In view of the above position, this Court proceeds to adjudicate this matter by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Accordingly, learned counsel for the respondents heard.

2. By filing the OA, the applicants sought the following reliefs:-

- “(i) to direct the respondents to grant/pay, retirement benefits like gratuity amounting Rs.120852 and other benefits to the applicant No.1.
- (ii) to direct the respondent to grant 18% interest on delayed payment of all the retiral benefits.
- (iii) to direct the respondents to grant all consequential benefits to the applicant.
- (iv) to pass any other order/s as deem fit and proper in the facts and circumstances of the case.”

3. The grievance of the applicants is that the respondents have not released gratuity after expiry of husband of the applicant no.1, namely, Shri Sugar Singh, who was employed as Keyman at Railway Station, Okhla and died in an accident on 25.1.1997 at Okhla Railway Station, as after the expiry of her husband, the respondents withheld all the pensionary benefits due to lack of succession certificate. The applicant No.1 along with other family members obtained a succession certificate and thereafter the respondents released all the pensionary benefits and other benefits except gratuity (DCRG) amounting to Rs.120000/- to the applicant till date. The applicant made a representation to the respondents but till date no action has been taken by the respondents. In these circumstances, the applicants have approached this Tribunal for redressal of their grievance.

4. Learned counsel for the respondents plainly conceded that the respondents do not deny their responsibility for payment of amount of gratuity after the death of husband of applicant no.1 and father of other applicants. However, the same is subject to recovery of rent, electricity and other charges, if any. Counsel further stated that the admissible amount of gratuity has not been released due to non-vacation of Railway Quarter No.RB-1 Railway Colony, Okhla, New Delhi, which was in occupation of the said family of the deceased Govt. employee as on 3.4.2008 as advised by Sr. Se/P Way/TKD and ADEN/TKD and no such mentioned has been made by the applicant in the OA.

4.1 Counsel further stated that the information regarding details about the vacation of the said accommodation with rent and electricity recovery has been called for vide letter of even number dated 26.7.2016 and further action for release of the said DCRG (subject to verification from associate finance by issuing of No Demand Certificate) will be taken as soon as possible in this case.

4.2 Counsel also stated the amount of DCRG was withheld for non-vacation of Railway Quarter No.RB-1/D Railway Colony Okhla, New Delhi, which was allotted to the deceased Govt. employee, was in occupation of the family members of the deceased Govt. employees at the time of submission of relevant papers.

5. This Court also perused the rejoinder filed by the applicants in which applicants have alleged that in the said Govt. accommodation which was allotted to the Deceased Govt. employee, i.e., husband of the applicant no.1 and father of rest of the applicants, they were not residing and actually one Smt. Parmali was residing who alleging herself as wife of late Shri Sugar Singh and applications for succession certificates have been filed by the applicants along with the OAs.

6. Counsel further reiterated that the admissible amount of gratuity has not been released due to non-vacation of Railway Quarter No.RB-1 Railway Colony, Okhla, New Delhi, which was in occupation of the said family of the deceased Govt. employee as on 3.4.2008 as advised by Sr. Se/P Way/TKD and ADEN/TKD and the amount of gratuity will be released only after clearance of the

dues pertaining to the said Govt. accommodation and further stated that since the applicant no.1 has not given the account of details of rent and electricity payments pertaining to the said Govt. accommodation, However, they have asked for the same vide letter dated 26.7.2016 and the action for release of DCRG will be taken only after receipt of no demand certificate.

7. Having regard to the above facts and circumstances of the present case, this Court does not find any illegality in the action of the respondents for not releasing the admissible amount of gratuity as it is settled legal position that the same will be released only after clearing the dues pertaining to the Govt. accommodation which was allotted to the deceased Govt. employee. It is not disputed that the said Govt. accommodation was not allotted to applicant's husband while he was in service. However, the objection of the applicants in this case is that they were not residing in the said Govt. accommodation, but the fact that the said Govt. accommodation was in the name of the deceased Govt. employee (husband of the applicant no.1) and the dues pertaining to the same will be adjusted from the amounts of the gratuity, if the same is not vacated in time. Unless and until no demand certificate is produced before the competent authority, the final gratuity amount cannot be released by the respondents to the applicant of this OA.

8. In the peculiar facts and circumstances of this case, once applicant No.1 along with other family members have obtained succession certificate and on the basis of the same, the

respondents had also released pensionary benefits to them, except gratuity. The only reason why they have not been able to pay the amount of gratuity to the applicant no.1 is that the said Govt. accommodation was in the name of the deceased Govt. employee and dues pertaining to overstay in the said accommodation are yet to be cleared. Quite clearly once the applicants have stated that they were not occupying the said accommodation and the respondents themselves have stated, as recorded in para 4.1 above, that they have called for the details vide letter dated 26.7.2016 with regard to rent and electricity charges recovery so that the release of DCRG can be done as soon as possible. Now it is over two years since the said averment, hence, the respondents are directed to calculate the amount, which is due to be deducted from the gratuity, and adjust the same as per the CCS (Pension) Rules so as to ensure the payment of the admissible amount of gratuity within a period of 60 days from the date of receipt of copy of this Order. Order accordingly.

9. With the above, this OA stands disposed of with the above directions. In case of any delay beyond the aforesaid period, the admissible amount of gratuity will be payable with interest at GPF rate till the date of actual payment. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

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